IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5169 OF 2004

Shri Omprakash Bahadur Gaud ...Applicant

Versus

The State of Maharashtra ...Respondent

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Shri Sanjeev P.Kadam for Applicant.

Shri S.R.Shinde, APP for Respondent.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 1, 2004.

P.C.

1. Heard learned Counsel for the parties.

2. The Applicant is facing trial for the offence punishable under Section 395 of the Indian Penal Code. The Applicant was released on bail by the Sessions Court. However, the Applicant did not remain present on 13th September 2004 and no application for exemption was filed on behalf of the Applicant. Accordingly, the Sessions Court

issued non-bailable warrant against the applicant. The applicant applied for cancellation of the non-bailable warrant, but the Court below has rejected that application on 29th September 2004 on the reasoning that as the Applicant had not applied for exemption and also because the applicant committed another offence while on bail.

3. Taking overall view of the matter and having regard to the fact that the Applicant has been arrested on suspicion in some other offence, in which he has already been released on bail, the appropriate course, to my mind, is to set-aside the impugned order on condition that the Applicant will appear before the Trial Court and make fresh Application for exemption from appearance. The applicant undertakes to appear before the Trial Court on 6th December 2004. Application succeeds on the above condition. Ordered accordingly.

A.M.KHANWILKAR, J.

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